

REMARKS

Applicants have received and carefully reviewed the Office Action of February 7, 2008.

Claims 2, 16-18, 21-26, and 29 have been cancelled. Applicants have now amended claims 1, 3-15, 19-20 and 27-28 to further refine and clarify that which Applicants consider to be the invention. Specifically, the amended claims are supported by the disclosure at page 17, lines 16-19: wherein the wound-contacting layer is easily removable. This feature does not describe the effect of the device, but is a structural requirement defining the types of materials used. In addition, Applicants have clarified that the 'device' subject to dependent claims is directed to the wound-contacting layer, also supported by the disclosure at page 17, lines 16-19.

Rejections under 35 U.S.C. §112

The Examiner rejected claims 4-18 under 35 U.S.C. §112, second paragraph, as being indefinite. Applicants submit that Applicants' amended claims render this rejection moot, and respectfully requests withdrawal of this rejection

Rejection under 35 U.S.C. §102(a)

The Examiner rejected claim 29 under 35 U.S.C. §102(a), as being anticipated by USP 5,910,489 to Falk. According to the Examiner, Falk teaches a non-steroidal anti-inflammatory pain

relieving drug (NSAID) formulated for topical application so that there is no significant blood levels of the drug.

Applicants have cancelled claim 29 and therefore request withdrawal of this rejection.

Rejection under 35 U.S.C. §103(a)

The Examiner has rejected claims 1-23, 25 and 26 as obvious over Falk. The Examiner states that the adjustment of particularly effective amounts of ingredients which are beneficially taught in Falk, as well as teaching the desired absorption level of active pain-killing agent, is deemed merely a matter of judicious selection and routine optimization, which is well within the ordinary skill of those in the wound care art. Applicants respectfully traverse this rejection.

Falk teaches a method for treating certain skin conditions, including cancer, warts, and psoriasis by application of a topical composition containing both hyaluronic acid (HA) and another drug. The other drug can be, for example, an anti-cancer drug or a pain-relieving agent. The Falk composition is in the form of an ointment or gel that is rubbed into the skin, and can only be used for skin diseases. It is clear from the specification and claims of Falk that the HA component must be present for the composition to have its intended effect.

Applicants claim a device, not a composition. Applicants' device is directed to the treatment of a wound and comprises a wound contacting layer which is either impregnated or

coated with the pain-relieving agent. There is no HA present in Applicants' claimed device. The device is applied to the skin or wound site, and is removable. In contrast, the composition of Falk is absorbed by the skin and, thus, is not removable. Falk is silent with respect to incorporating the claimed pain-relieving agent into a removable wound contact layer.

The burden is on the Examiner to establish a *prima facie* case of obviousness of the claimed subject matter over prior art references. In re Deuel, 51 F.3d 1552, 1557, 34 USPQ2d 1210, 1214 (Fed. Cir. 1995). Only after that burden is met must the applicant come forward with arguments or evidence in rebuttal. Id. To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).

Applicant respectfully submits that Falk does not teach a wound care device comprising a pain-relieving agent incorporated into a wound-contacting layer of a material that exhibits suitable permeability for wound exudates, where said wound-contacting layer also has a thickness of between about 0.5 mm and about 1.5 mm and is easily removable from the wound. As such, Falk does not teach each and every element of Applicants' claimed invention, and cannot render Applicants' claims *prima facie* obvious. Applicants respectfully request withdrawal of this rejection.

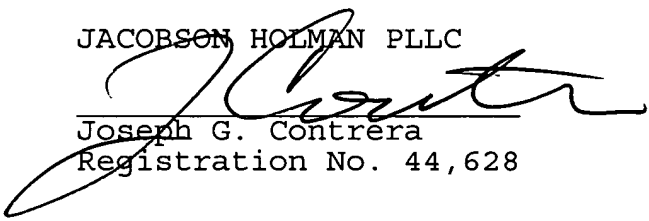
All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all currently outstanding rejections, and that they be withdrawn. As such, the

present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

If the remittance herewith is incorrect in any fashion, kindly debit or credit Deposit Account No. 06/1358 appropriately and advise the undersigned accordingly.

Respectfully submitted,

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